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January 16, 2014

Theodore C. Knight
Attorney at Law
9121 NE Briar Rose Lane
Bainbridge, WA 98110

RE: **Agreement in Principle**

Dear Mr. Knight:

Enclosed is an original of the Agreement in Principle between the Spokane Tribe of Indians and the State of Washington signed by B.J. Kieffer for the Tribe and Maia Bellon for the Department of Ecology. The Department of Ecology will retain the other original that was executed by the parties.

If you have any questions, please do not hesitate to contact this office.

Sincerely,

ALAN M. REICHMAN
Assistant Attorney General
(360) 586-6748

AMR:JLD
Enclosure

cc w/enc: Derek Sandison

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COPY

Agreement in Principle
Between the Spokane Tribe of Indians and the State of Washington
Possible payment for future lost revenue from implementation of the Odessa Subarea
Special Study Groundwater Replacement Project

Parties

The Parties to this agreement are the Spokane Tribe of Indians ("Tribe") acting by and through the Spokane Tribal Natural Resources Department, and the State of Washington acting by and through the Department of Ecology, Office of the Columbia River ("State").

Interests

The State with the assistance of the United States Bureau of Reclamation ("BOR") is pursuing the implementation of the preferred alternative contained in the Record of Decision for the Odessa Subarea Special Study Final Environmental Impact Statement ("ROD"), issued on April 2, 2013 ("preferred alternative"). The implementation of the preferred alternative could ultimately result in providing irrigation water from the Columbia River to roughly 70,000 acres of land currently irrigated by groundwater in the Odessa Subarea. Groundwater in the area is declining rapidly due to overuse, and the State and BOR are seeking to remedy the situation through implementation of the ROD's preferred alternative. The irrigated lands that will be irrigated are authorized to use water from the Columbia Basin Project ("CBP").

The Tribe has substantial and valuable interests in the Columbia and Spokane Rivers. The Tribe's Reservation was established on August 18, 1877, and sits at the confluence of the Spokane and Columbia Rivers. The Tribe claims reserved rights to water from the Spokane and Columbia Rivers with a priority date that pre-dates the priority date of water rights associated with the CBP. The Tribe has fishing rights in both the Spokane and Columbia Rivers and is actively pursuing anadromous fish reintroduction above Grand Coulee Dam. Further, the Tribe is pursuing passage of the Spokane Tribe of Indians of the Spokane Reservation Equitable Compensation Act (S. 1448) ("Act" or "legislation"). If enacted, this legislation would "provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes."

Both Parties agree and affirm their desire and interest to work together in good faith at the government-to-government level to resolve their differences and disagreements whenever possible.

Purpose


Carrying out the preferred alternative contained in the ROD will impact power generation at Grand Coulee Dam. If the legislation being pursued by the Tribe is enacted, the implementation of the preferred alternative would impact the Tribe's compensation pursuant to the Act. Accordingly, the parties wish to ensure that if the Act becomes law, the State would act in good faith to seek authorization to appropriately compensate the Tribe for any lost power revenue that may be caused by implementation of the preferred alternative. The State is currently in the process of negotiating a power revenue compensation agreement with the Confederated Tribes of


the Colville Reservation, which presently is entitled to compensation from the United States for lost power revenue.

Terms

1. In the event that the Spokane Tribe of Indians of the Spokane Reservation Equitable Compensation Act, or similar legislation, is enacted by the United States Congress, thirty-(30) days after passage of such a law, the State will commence negotiations with the Tribe to attempt to reach agreement on an appropriate amount of compensation to the Tribe for lost power revenue associated with implementation of the preferred alternative.
2. During any negotiations commenced pursuant to Term No. 1, above, the Tribe and the State would attempt to reach agreement on an appropriate amount of compensation that the State would provide to the Tribe through a single payment to the Tribe for their estimated lost power revenue from Grand Coulee Dam due to the implementation of the preferred alternative contained in the April 2, 2013 ROD for a period of one-hundred-(100) years from the date of the Act's passage. In any such negotiations to attempt to reach agreement on an appropriate amount of compensation, the Parties shall endeavor to determine an estimated average annual revenue impact, an appropriate discount rate, and consider any other relevant factors.
3. If an agreement for an appropriate amount of compensation is reached between the Tribe and the State, the State commits to make a good faith effort to secure an appropriation from the Washington Legislature, and the passage of any legislation that may be necessary, to enable the State to make a payment to the Tribe, as described in Term No. 2, above.
4. This Agreement in Principle shall not affect any terms of the Water Resources Management Agreement for Lake Roosevelt previously executed between the Parties.
5. This Agreement in Principle shall not affect any of the Tribe's rights and interests, including its fishing rights, and claimed reserved water rights, within the Spokane and Columbia Rivers.
6. This Agreement in Principle shall be in effect from the date of the last signature until any payment described in Terms Nos. 1 and 2 is provided to the Tribe.

The Parties hereby agree to the above terms and will in good-faith and honor carry out the terms utilizing all the authorities and powers available to the Parties.

 12/19/13
B.J. Kieffer
Director
Spokane Tribal Natural Resources Department

 1/20/14
Maia Bellon
Director
Department of Ecology